THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO.21896 of 2000

Date: 01.10.2007

BETWEEN:

Vemuri Venkata Rama Rao S/o Venkata Krishnaiah

……PETITIONER(S)

A N D

1. The Vice-Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam and another

……RESPONDENT(S)

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO.21896 of 2000

ORDER:

Petitioner, claiming to be the owner of Ac.0-41½ cents in S.No.61/2 of Rushikonda Village, Visakhapatnam Rural Mandal, Visakhapatnam District, filed this petition seeking a direction to the respondents not to acquire the said land without invoking the provisions of the Land Acquisition Act, 1894 (for short - 'the Act').

2. The case of the petitioner is that he purchased the land of Ac.0-41½ cents in S.No.61/2 of Rushikonda Village, Visakhapatnam Rural Mandal, Visakhapatnam District, under registered sale deed in 1995 from K.Sundarama Raju for a valuable consideration and enjoying the same and that respondents are trying to encroach into that land by laying a road.

3. Secretary of Visakhapatnam Urban Development Authority (1st respondent) filed his counter affidavit *inter alia* contending that the lands covered by S.Nos.61 and 62/1 correlate to old S.Nos.20 and 24, and as per the records they are registered as assigned waste dry lands, and are free from encroachment and some portion of the said land was assigned to Chattipalli Sadhu by way of 'D' form patta, and if the petitioner purchased the land in the said S.Nos., either from the assignee or some others it is a void transaction and as the first respondent laid a road in the adjoining portion which is not a private land, there was no need to invoke the provisions of the Act for laying that road.

4. In the counter affidavit filed by the Mandal Revenue Officer, Visakhapatnam (Rural), on behalf of the second respondent, the same contention was raised and he further alleged that petition filed by T.Ramanadh Swamy, claiming title to an extent of Ac.21-20 cents in those S.Nos., was dismissed and his appeal to the District Court and the appeal before the Estates Abolition Tribunal are still pending.

5. Since the title of the petitioner to the land being claimed by him is in dispute, and since the disputed questions of fact cannot be gone into in a writ petition, if really the respondents unauthorizedly encroached into the land belonging to the petitioner, his remedy is to approach a Civil Court for establishing his title and seek compensation for the encroached area or removal of the encroachment. But, no relief can be granted to him in this petition.

6. Hence, the writ petition is dismissed with costs.

01.10.2007

Cvrk